IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP NO. 589 Of 2007.

Date of decision: May 10,2007.

Mohan Lal Chauhan. ……. Petitioner.

Vs.

Deputy Commissioner, Shimla & ors. ……. Respondents.

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The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? Yes.

For the petitioner: Mr. R.P. Singh, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Dy. Advocate General for respondents 1 and 3.

None for respondent No.2.

Deepak Gupta, J.(Oral).

The facts, which have emerged in this case, reveal a very sorry state of affairs regarding the manner in which Administrative Officers conduct themselves while discharging judicial functions.

The petitioner before this Court had challenged the election of respondent No.2 to the post of Pradhan, Gram Panchayat Bag (Domehar), Tehsil Kotkhai, District Shimla, H.P. This election Petition was filed before the S.D.O.(Civil), Theog, who was the competent authority under the H.P. Panchayati Raj Act, hereinafter referred to as the Act. During the pendency of the proceedings, the respondent No.2 filed an application under Section 165 of the Code of Civil Procedure. This application was allowed and thereafter, the respondent No.2 filed an appeal before

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Whether reporters of local Papers may be allowed to see the judgment? Yes.

respondent No.1. Respondent No.1 stayed the proceedings before the competent authority. The present petitioner challenged the order passed by respondent No.1 in CMPMO No.146 of 2006 before this Court and thereafter, the respondent No.1 vacated the stay order on 12.6.2006.

The competent authority finally set-aside the election of respondent No.2 vide his order dated 5.10.2006. Respondent No.2 preferred an appeal under Section 181 of the Act. This appeal was filed in the year 2006. Arguments in the case were heard on 15.1.2007 and thereafter the case was fixed for decision on 20.2.2007. No order was passed on 20.2.2007 when the matter was adjourned to 6.3.2007. On this date again nothing was done and the matter was adjourned to 26.3.2007. Even on 26.3.2007, the order was not announced and the matter was adjourned to 16.4.2007. On 16.4.2007, the case was fixed for 21.5.2007.

According to the petitioner, he thereafter approached respondent No.1 that the appeal as per the provisions of Section 181 of the Act has to be decided within 90 days, but the matter was being unduly delayed. When no heed was paid, the petitioner filed the present writ petition on 25.4.2007. This matter came up before us on 8.5.2007 when we passed the following order:-

> **"The grievance of the petitioner in the present writ petition is that the election of Shri Devinder Singh was set-aside by the Authorised Officer under the Panchayat Raj Act. Against the said order, Devinder Singh filed an appeal before the Deputy Commissioner, Shimla.**

Arguments in this appeal were head on 15-1-2007 but no order has been announced till date. Keeping in view the allegations made in the petition, we direct that the respondent No.3 shall file his personal affidavit as to why the decision has not been taken till now in the matter and shall also produce the entire records of the case. He shall also appear in person on 10.5.2007."

Today the Deputy Commissioner, Shimla appeared in person and has filed his affidavit in which it is stated that he has decided the appeal vide order dated 8.5.2007. The only explanation given in the affidavit for not deciding the appeal within time is that due to various administrative works, the appeal could not be decided. Keeping in view the fact that the appeal has been decided, this petition has become infructuous. Shri R.P. Singh, learned counsel for the petitioner does not press this petition, which is dismissed as not pressed.

We are not at all happy with the manner in which the respondent No.1 has proceeded in the matter. Even prior to this case other cases have come to our notice where we felt that the Administrative Officers are not performing their judicial functions in a proper manner. We have been noticing a clear trend amongst all Administrative Officers that they are neglecting their judicial and quasi judicial functions. Under Article 227 of the Constitution of India this Court exercises supervisory jurisdiction over such officers. It is our constitutional duty to ensure that Officers under our supervisory control discharge their judicial and quasi judicial functions in a proper manner.

In case the Administrative Officers are reluctant or not willing to do such work, the State would be better advised to allocate this work to Judicial Officers. In case the Administrative Officers are to do this work, they must be trained properly and they should ensure that the proceedings are conducted in a judicial manner and there are no undue delays in the matters. In this case, whereas, the legislative mandate is that an appeal should be decided within 90 days, the respondent No.1 even after hearing the arguments on 15.1.2007, did not decide the matter for a period of almost four months. This delay cannot be justified under any circumstance.

We are of the opinion that keeping in view the provision of Code of Civil Procedure and the law as laid down by the Apex Court, the outer limit for pronouncing the judgment should be 30 days from the date of hearing of arguments.

There can be no dispute that the Administrative Officers need to be trained to conduct judicial and quasi judicial proceedings in a proper manner. It may be advisable for the State to consider whether young Administrative Officers should be given proper and adequate training for handling judicial or quasi judicial work.

A copy of this judgment be sent to the Chief Secretary to the Government of Himachal Pradesh to ensure that the Administrative Officers are given necessary training to handle judicial and quasi judicial work. He shall also send a copy of this judgment to all the Administrative Officers, who are handling judicial or quasi judicial work within a

period of 30 days from today. Compliance affidavit be filed within 6 weeks from today.

(Deepak Gupta)
Judge.

May 10, 2007.
(Pds)

(Surinder Singh)
Judge.